

THE RAILROAD QUESTION.

SPEECH

OF

HON. IRA COLBY,

REPRESENTATIVE FROM CLAREMONT,

IN THE

House of Representatives in favor of the
Hazen Bill,

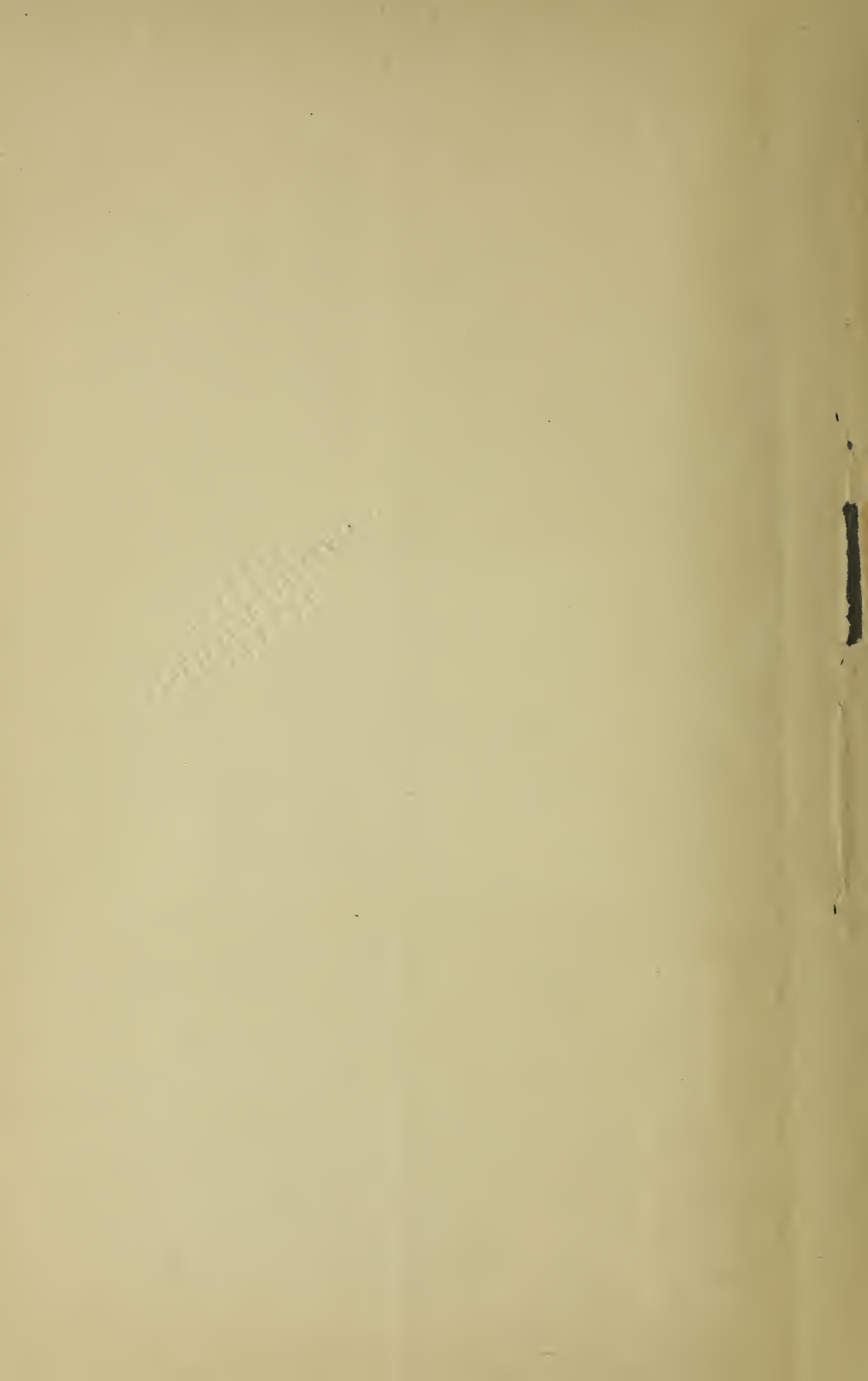
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SPEECH.

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATURE :

I have listened to the gentleman from Exeter, Mr. Marston, with a great deal of pleasure, as I always do. In concluding, he asked you to take notice of the fact that the eyes of the people of the state are upon you. I hope, gentlemen, you will remember that fact ; that you will listen carefully to what I have to say upon this matter ; and not only remember that, but remember what has been said by way of argument upon our side of this question from the beginning. I do not wish to detract from the arguments that have been made by any gentleman, but I do say, that in my judgment there has not been a legitimate argument made in favor of the Atherton bill from the beginning up to this time, that has a solid foundation. I cannot go over all that has been said. If I could take it up step by step and comment upon it, and your patience would hold out, I think I could show you that what I say is true. But time will not permit. I cannot advert to a great portion of what has been said. I must leave you to fill up from the arguments of others what I shall leave out. I have had the misfortune, if it may be called such, at two stages of this debate to have my intended argument largely made by other gentlemen who have preceded me upon the same side. Mr. Branch, of Weare, said in a better way than I could a considerable amount of what I intended to say to you, and so I am content. I am glad he said it, and I hope you will remember it. Mr. Bell, who appeared before you this morning, has done the same thing : a very excellent argument in most of its points, and, aside from some expressed fear of monopoly, it was a perfect argument in favor of the Hazen bill. I thought, when the gentleman from Exeter, Mr. Bell, had finished, that it would not be worth while for me to advert again

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to the legislation of 1883 ; but some remarks made by the last gentleman upon the floor have made me think that perhaps I had better begin where I left off the other day, and add a little to the argument I then made as to the law of 1883.

I was showing you, not for the purpose of reflecting on any one, that the gentleman from Nashua had changed his mind, or that he occupies a different position now from that which he then did. I was showing you by extracts from the Nashua *Telegraph* what the views of the gentleman from Nashua, Mr. Moore, were in 1883 upon the subject of the law then enacted. I understand, from some utterances of his that I have lately seen, he denies that he has made any change in his views. As I understand it, he puts it somewhat in this way : Admitting that the law of 1883 was a general law, he says it was a general law passed for a special purpose. That, in short, as I understand it, is the position of the gentleman from Nashua. Mr. Speaker and gentlemen, the law of 1883, as has been clearly shown by the argument of the gentleman from Exeter, Mr. Bell, was broader than that. Under it the opportunity was given to the Boston, Concord & Montreal and the Northern railroads to unite with the Concord. Under it was given the opportunity for the Eastern and the Boston & Maine to unite. But, gentlemen, the law of 1883 was broader, and was intended to be broader, than that. It has been said, if gentlemen had understood that it was to terminate in a lease by the Boston & Lowell of these northern roads, it could not have commanded twenty votes upon the floor of that house. Mr. Speaker and gentlemen, if it had been asked of the legislature of 1883 to pass any special legislation looking to the union of those roads and leaving the matter just there, it would not have commanded twenty votes on the floor of that house. It was in recognition of that broader view which the legislature had,—it was in recognition of the strength of the principle of consolidation,—that these railroads, which then had, as I admit, a special purpose underneath that bill, drew the general railroad law and presented it to the legislature of 1883. The railroads of that time knew, and I think the railroads of the present time will find out, that the people of New Hampshire are not in favor of any such special legislation as that proposed by the Atherton bill. The legislature of 1883 fully understood

and committed itself to the idea of general consolidation, and if the law then proposed had not been recognized as a general law it could not have been enacted: the current of thought and feeling were in that direction. That was the tendency of the time, and the railroads dared not present a bill not general in its character. They knew full well that if they put it to that legislature simply that these three railroads in this part of the state should unite, and the two in the other part of the state should unite, their bill would be defeated. They understood it as well then as they will understand it now, and so they made the bill as broad as they did. I refer you, gentlemen, in addition to references made the other day, to the utterance of Judge Cross in his argument before the railroad committee. Judge Cross said the principle of consolidation has been accepted in New Hampshire, and in illustration of what he meant he named several instances where it had taken place, and among others he named the consolidation, the ownership by the Boston & Lowell of the Manchester & Keene, thus bringing before the committee that he was addressing, and before the members of the legislature then present, the fact that the Boston & Lowell Railroad at that very time was the owner, as he stated it, in whole, but as the fact was, only in part, of the Manchester & Keene, and was at that time operating it with the consent of the Concord, which owned the other half under a decree of the supreme court of the state, making it unquestionably a legal operation of that road;—such being the situation, they were clearly included within the terms of the act.

In addition to this, I desire to show you an extract cut from the columns of the *Daily Monitor* of 1883, then distributed, as it has been during this session, through the house day by day, enumerating the railroads within the state and without the state that might be consolidated or leased by virtue of the act. Twenty-four railroads within the state and some eight railroads outside the state are named; and among those eight the Boston & Lowell.

Can any man properly say, in the light of these facts, that the legislature were not fully informed in regard to the matter of the Boston & Lowell's being included in the terms of the act of 1883, and that they did not act in the light of that informa-

tion and did not know what they were doing? It has been said that the intent of the law of 1883 is to be gathered from the utterances of persons who participated in the debates in the house. The gentleman from Exeter has told you what he said in that debate, namely, that all the railroads within the state might be consolidated under that bill, and he has told you that nobody denied it. Other gentlemen referred to the same matter in the debates that then transpired. I say this merely to show you that the legislature knew perfectly well what they were doing. But this is not the proper way to determine the intent of the law. It would be strange, would it not, gentlemen, if one of you should come into my office, and ask me the meaning of the law of 1883, if I, instead of going to my shelves and taking down the statutes, should say to you, "I cannot quite tell. I have got to write to some gentleman, perhaps the speaker of that house, or some other prominent man, the chairman of the railroad committee, to find out what people said at that time." Would not that be a singular way to find out the intent of the law? Should I not rather go to my shelf and take down the statutes of the state, and open to the text and read the sections, and undertake to tell you from them the meaning of the law? Is not that the way to determine the meaning of the law? What force is there in the talk we have had addressed to us on this subject? The meaning of the law is to be gathered from the law itself. My friend from Laconia, Mr. Stone, says, "Gentlemen of the legislature, if you were a court, that would be the way to determine the intent of the law; but you are not a court." Gentlemen, the constitution of the state points out to you in all doubtful matters the tribunal to which you shall apply for the meaning and interpretation of the laws. That tribunal is the supreme court. You who have been here before know, and all of you understand, that frequently the legislature of the state, either the house or the senate, have applied to the supreme court for their opinion. That is the constitutional tribunal for such purpose, and the method of the court is the proper method of interpretation; that is, by the examination of the text of the law itself. Turning to the law, and reading the 18th section, who can for a moment doubt that railroads outside the state operating roads within the state are included?

The gentleman from Exeter says that what was intended is this, "all railroads *legally* operating roads within the state;" and that this is the meaning of the act. Gentlemen, just apply your common-sense to this proposition. If the legislature intended to say "all railroads *legally* operating roads within the state," would they not have used that term? Most certainly, if they meant to make such a distinction. But they used the plain words, "all roads operating roads within the state," and these are the words made use of by the *Daily Monitor*. In the second part of the extract cut from the *Monitor* are the words, "roads outside New Hampshire, but operating roads within it." Such are the words, and such was understood to be their meaning.

But, gentlemen, the supreme court have had this matter before them. This matter of the meaning of the law of 1883 has been before the court, and it is well understood that the court found the text of the law on the point under consideration too plain to make anything out of it except exactly what the reading of it makes to any understanding. There were four objections to the lease before the court in the case, namely,—“That roads outside the state operating roads within the state” meant “legally operating;” that competing roads could not lease each other; and that the Northern and Boston, Concord & Montreal were competing roads. Another was the constitutional objection, which finally prevailed; and another objection still was, that the roads did not physically connect. Those four objections were made to the court against the lease of the Northern Railroad to the B. & L., and no others. These matters were fully discussed before the court; and at a certain term of the court it came to be understood that the court found nothing in any objection before them except the constitutional objection, as it was called; that is, that there was no provision made in the act for dissenting stockholders. On this question they signified to counsel that they desired further briefs; and very voluminous briefs were made and furnished to the court. The decision of the court followed, and showed but a single defect in the law. The court knew very well that this matter was coming before this legislature. I desire that you will consider this point. Do you suppose that the supreme court would fail to make known

all the defects they found in the law, knowing that the legislature were going soon to convene, and that this subject would come under their consideration for action? It had been talked about; it was well understood it would come before the legislature. The legislature might wish to amend the law, might wish to remedy any defect found in it. They might wish to modify it; there might be a contest over it;—in such state of the case do you suppose the supreme court, finding the law to be defective because the rights of dissenting stockholders were not provided for, when they made known this defect, would not have made known any other defect they had discovered on the points raised? Would the supreme court be likely to take such a course as that in a matter of grave importance, just before a legislature is convened to act upon the subject? It seems absurd. And here, gentlemen, I think we may dismiss the point as to the intent of the law of 1883. I have spoken at greater length in regard to this matter than I should have done had I not felt that legislation involving a principle acknowledged to be good and useful ought to receive a fair and full trial, and the effort be made to amend and perfect it rather than to repeal it.

I do not think it wise for one legislature to hastily undo the work of another, and so breed confusion in our laws and in the conduct of business. Such action should be taken only in obedience to very powerful reasons. It is also of some consequence as bearing upon the question of what is fair and equal justice towards the Boston & Lowell Railroad. If the gentleman from Manchester had listened carefully to what I said, he would not have spent an hour and a half in trying to combat a proposition which he imagined I had put forth, but which in fact I had not. I said, I freely admit that it was the design of these roads under that general railroad law to unite, and the railroad law was to give them their opportunity; but if they did not take that opportunity, no man in that legislature, no man who had anything to do with the passage of that law, ever dreamed for a single moment that others were debarred from taking their opportunity. That is what I said; and he went on for an hour and a half quoting arguments and statements, and making statements of his own in regard to somebody or other who had said some-

thing about a union of these roads. I did not deny all that. I admit all that ; but I said the legislation of that time was broader, and meant something more than that.

Well, gentlemen, the legislation stood in that way. The Concord Railroad had their opportunity, as the Eastern and the Boston & Maine railroads had their opportunity ; and the Concord Railroad, for a reason which is attempted to be glossed over and apologized for, failed to take their opportunity. They failed in making a business connection with the Boston, Concord & Montreal and the Northern roads ; and various excuses have been made for their failure. If they had had a common interest, if there had been harmony of feeling, the legal technicality in the way would have amounted to little. Everybody knows, as my friend from Exeter has said, that a man will not quarrel with himself or his own interest. If they were united, if their ideas came together, even if they could not get a union exactly legal, they could get one that was sufficient in all respects for their action and the conduct of their business. The truth is, the Concord Railroad were hard and exacting in their terms, and the Northern and the Boston, Concord & Montreal would not comply, and so the union failed. The Concord road lost their opportunity on account of their greed, on account of their own hard-handedness in the matter. They afterwards had another opportunity, and they lost that in the same way, and by their own fault. The Boston & Lowell Railroad, with this matter open as it was under the law,—and a state of things existing such as I have stated,—came here, as my friend from Weare, Mr. Branch, has said, at the invitation of the Northern and the Boston, Concord & Montreal. They had a perfect right to come. Is there a man within the hearing of my voice who will say that under those circumstances it was not fair and above board, and that the Boston & Lowell road were not justified, so long as the other roads quarrelled and would not unite, and they were invited to come into this contract, that they should do it? I think the good faith of the state of New Hampshire is, just here, involved in the transaction. If the Concord Railroad had stood just where the Boston & Lowell Railroad stands in regard to this matter, and had come before this legislature, would you not have said, “The legal defect shall not prevail in this matter. They wish to

unite ; they have made their contracts ; they made satisfactory arrangements. They wish to come together. Shall we not allow it : shall we not unite them ? Shall we not remedy the defects in the law, and let this Concord and these northern roads come together ?” Is there a man here who would not have said, “That is right ; that is justice ; that is what ought to be done” ? Why, then, should we not deal out to the Boston & Lowell road the same treatment we would have dealt out to the Concord road under like circumstances ? But it is objected,—they are a “foreign corporation.” I will come to that by and by.

Is there any reason why you should not confirm the leases of those two roads, allow the law to be perfected, and the whole matter to stand where the people on those two roads desire it to stand ? The Boston & Lowell have come in here in good faith, have put their money and material in, have done good service for the state and its people, have managed the roads up and down these lines so that even the opponents of this measure all say it was good service. It satisfied the people. They could not make the least objection against it. We ought to concede it to the wishes of the people, as well as in justice to the roads. I can see no possible reason, on grounds of common justice, for denying the confirmation of the leases. But, gentlemen, it is objected that the lease is too long ; that it is a 99-year lease ;—and it has been iterated and reiterated here that this lease extends beyond the time of your children and your children’s children for two or three generations to come, and that on that account it is a very dangerous thing to enter into ; that it is dangerous for the state and for its people to pass over the possession of these roads for so long a term. This is and has been the stock in trade of my friend from Nashua. That is the talk made to you by the gentleman from Exeter, Mr. Marston, whose opinion on questions of law I am ready to endorse. I admit the law that has been given to you, both by the gentleman from Manchester and the gentleman from Exeter, Mr. Marston ; but, gentlemen, it has no application in this case. That is the difficulty about it. It is always a good plan, when you undertake to talk about a thing, to see what you are talking about, see what your point of departure is. I think I can show you, gentlemen, so that every man in this house will understand me, that their theory

about this matter is entirely wrong. I hold in my hand a copy of the lease of the Northern road, of their railroad property, etc., to the Boston & Lowell Railroad. What is the character of this instrument? Gentlemen, it is a lease: it is not a sale. The court have said that for certain purposes it is a sale of the roads; that is, it is so far a change in the condition of the property of the roads that any dissenting stockholder may take the value of his property and go his way with it. But nevertheless, gentlemen, it is not a sale: it is a lease;—and I wish you to put your minds upon the points in regard to the lease as if it were a lease of your farm, or a lease of your buildings, or a lease of your store, and you will see at once the difference between that kind of an instrument and an entire sale of your property.

I find that there are numerous covenants in this lease. I find, among other covenants, that the fourteenth is as follows: “And the party of the second part also covenants and agrees that in case of the breach of any of its covenants herein contained, or in case the estate hereby created and vested in it shall be taken from it by legal proceedings of any kind, or in case of default in payment herein provided to be made by the party of the second part or any part thereof, for a period of thirty days after the same is payable, then the party of the first part, its successors and assigns, may enter upon and take full possession of the premises herein demised, and all depots, shops, buildings, tracks, rolling-stock, or other property added thereto, and remove said lessee and all persons claiming under it from said premises, and thereby determine the estate hereby granted, using whatever force may be necessary for that purpose.”

Now, what is the state of this case? The gentleman from Nashua has told you that railroads are public corporations. He has told you that persons operating them are public trustees. I admit it; and, gentlemen, a good deal of talk—to stop in what I was saying about this lease—a good deal of talk has been made about vested rights. A great flourish was made by the gentleman from Manchester, Mr. Sulloway, who came here last night and talked long and loud on the subject of vested rights, and gave, as he said, a pile of authorities that would deluge anybody that should deny that doctrine. There is no

doubt about that law, or what the gentleman from Exeter stated here in regard to the subject of vested rights ; but the trouble about it is, there is not anything vested except the right to execute a public trust so long as it is executed properly. That is their difficulty. That is just where this whole thing hinges. Look at it for a moment. Did you ever hear of an administrator who had a vested right in the estate he was administering upon, so that he, in defiance of his duties and obligations under the law, could go on and do anything he pleased and not find himself subject to removal? Did you ever hear of a trustee who held any property in his hands, who had any other vested rights than the right to conduct that property and control it and do with it according to the conditions of his trust?

Well, now, these railroad companies are trustees. They are discharging a public trust. They get their authority from the state to run their railroads. They are common carriers engaged in an undertaking almost purely public in its nature, and all their acts must be in accord with their obligations as public trustees. They are to do whatever common carriers ought to do under that trust. They have no vested right to do anything else. And the moment they cease to perform their public obligations, they have forfeited their right to remain in the public service. Just as an administrator may be turned out, just as a trustee who disregards his duty to the estate may be turned out, just so anybody who holds a railroad and undertakes to run it in defiance of the law of the state can be turned out ; and the law, as explained by the gentlemen referred to, has no application to the case. I admit if under an act of incorporation two parties make a contract one with the other, that a repeal of the act of incorporation will not disturb the contract ; but I claim that when the state charters a railroad, and allows that railroad to lease itself, holding both to the performance of all the obligations of the company originally chartered, it is simply saying to those parties, " You can take this property, and so long as you perform your public duties, your duties to the state and to the stockholders, and to every citizen that wants to come and go on your road, so far as you observe every rule and obligation that is incumbent on you, so long you may hold and operate your road ; but a disregard of your duties will place you at the mercy of the state and your lessor."

I call attention to the conditions of the lease in the tenth article. The tenth article is as follows: "It will, during the term of this lease, operate said demised railroad according to the requirements of law, fulfilling all the duties and obligations of the party of the first part in relation thereto in the same manner as if the said demised roads remained in the possession and control of the party of the first part, and protect and save harmless the party of the first part against all actions or claims for injuries to persons or property during said term by reason of any want of repair of said road and property or appurtenances, or any casualty of any kind, or any want of care and skill in the management of the same, or by reason of any defect therein, and will comply in all respects with the requirements of law in the same manner as if it were the proprietor of said railroad and property, and will not permit the party of the first part to be subjected to any payment, penalty, or forfeiture for violation of law in any respect, and that at the expiration of or earlier termination of this lease it will return said demised road and property, with all equipments thereof, to the party of the first part, in as good order and condition as the same now are, without diminution or depreciation in any respect."

Now, gentlemen, this lease is perfectly iron-clad. Do you wish to shorten it and make it ten years, fifteen years, or thirty years? If you know that for ninety-nine years every obligation that is incumbent on this chartered road will be observed, do you wish to cut the term down? What advantage is there in it? Do you desire frequent contests in your legislatures, such as we have had here during the present session? What more is wanted than that every obligation of this railroad, as it was originally chartered, shall be fully taken care of and performed for the whole ninety-nine years, and that the rental shall be paid and other duties performed according to the terms of this lease? Why, if we could insure for ninety-nine years as perfect a condition of things in the railroads of New Hampshire as is contemplated in this lease; if we could know and insure that the Boston & Maine Railroad and the Concord Railroad would take care of every public obligation that rests upon them and perform every obligation to the stockholders as well as therein stated and provided for, I should feel that we had accomplished

something in this legislature worthy of its long session. If that condition of things exists, is there any objection to its continuance for ninety-nine years? You see, gentlemen, if this state of things is not preserved, if the covenants are not performed, within thirty days from the time of their breach the original company, the lessor, can step in, take this railroad away from the parties that are operating it, and give it to others who will serve the public and the stockholders properly. Is not that the plainest thing in the world? Do you not know, gentlemen, if you let your farm or your house to some one, and he violates the conditions of the lease, that you have your right to enter at once? Does not every man in this house know that you can take your property at once back into your hands, and do what you please with it? You can put the lessee out on short notice if he does not keep the written obligations he has made with you. There are no vested rights that can prevent this. Such is the contract the Boston & Lowell has or wishes to have with the Northern,—and I suppose a similar lease was made with the Boston, Concord & Montreal. If they do not observe the conditions, they forfeit their rights. If the lessor, in case of a failure of the lessees to perform their duties, whether public or private, has a right to enter for forfeiture of the lease, it would certainly be reasonable to suppose the authority of the state would be ample in the matter of a public trust to enforce performance of the duties, or to depose the trustee, as the public good might require.

There are reasons why a long lease is a good thing. I will enumerate some of them. If there are repairs to be made upon the road, if there is a double track to be laid, if there are any permanent improvements to be made, the party making them wants to know that he will be able to hold the property and enjoy the rights and privileges for a considerable length of time. He wants to know, if he puts a hundred thousand dollars into your Boston, Concord & Montreal road or into your Northern road, or five hundred thousand or a million dollars, or whatever sum it may be,—he wants to know that he will not be speedily deprived of its benefits; that he will have the privilege, if he performs his duty, of a long continued enjoyment of the outlay. If you insist upon a ten years lease or a fifteen years

lease, or even a thirty years lease, you order a condition of things in the state that will prove ruinous to the railroads. It seems certain to me. No one will be as likely to double track the Northern road under such a state of things; no one to build new depots, and do all the other needed things,—put in all the appliances, and maintain all the service that you want. If your rights are well protected, as I think I have shown you they are, why not allow these leases to be perfected? There is a remarkable inconsistency displayed. It is claimed there is danger in a lease of the Boston, Concord & Montreal Railroad for ninety-nine years, but at the same time they propose the union of that road with the Concord for all coming time.

There has been introduced from Cheshire county a bill which passed this house, providing for the leasing and consolidation of certain railroads. It involves every principle involved in this lease, and not a breath has been raised against it. Is my friend from Nashua so anxious to get a few votes from Cheshire county, and are my friends from Cheshire county so anxious to sell themselves out for a consideration, that they will allow such a bill to pass? Though they believe to the contrary, though they are opposed to a ninety-nine years lease,—my friend from Nashua shakes his head,—but when that matter was brought up here not a breath was raised against it. When one poses before this legislature as though he were a Gladstone, and talks about home rule he should at least make an effort to be consistent. Ninety-nine years means the same thing here as in Cheshire county. Consolidation and union with and leasing to foreign corporations is the same there as here. If our friends are governed by a principle, will they tell us what it is, and whether it sometimes slumbers? We should not be influenced by the action of any road towards any particular section of the state, whether it be the town of Whitefield or any other place. We are here to “bear faith and true allegiance to the state of New Hampshire,” not to the town of Whitefield, or to any town where you are going to have a little piece of railroad, and somebody flourishes a bond in your face as a ground for your action, and you come here and say, “I have not changed my general principles, but because my town is to be benefited a little I will sell the rest of you out.” [Applause.]

Will the men of Cheshire county, who have secured the passage of their bill by the aid of its friends and the forbearance of the friends of the Atherton bill, now by their votes deny to the other parts of the state such legislation as they themselves crave?

Now, a few words specially as to the provisions of these two bills. The Hazen bill, so-called, provides, in its first part, a remedy for the defect of the law of 1883. This is the first and main provision of the Hazen bill. The seventh section provides that the law of 1883 and this law shall be construed as authorizing the lease of these two upper roads to the Boston & Lowell. The gentleman from Exeter, Mr. Bell, has declared exactly my opinion on this matter, and that is, that it is simply declaratory. We are criticised by our friends of the Atherton bill for putting that into the bill. Turn to their own bill, gentlemen. They have done precisely the same thing: they have done what they criticise us for doing. They have said, in the latter part of the sixteenth section of the Atherton bill, "and said act of 1883 is hereby declared as authorizing only the leasing or the union of roads which physically connect." And they have put it in for a purpose. They have provided, that these upper roads shall not lease themselves to any road except the Concord. That is the meaning of this provision. If their bill becomes a law, the Boston, Concord & Montreal and the Northern roads cannot lease themselves to any road except the Concord, for that is the only road that physically connects with them. It is simply putting the matter between two parties who will attempt to make a contract here in regard to the railroad interests, so that one party will be at the mercy of the other. What is your opinion of such a provision? If the legislature should provide that you could not sell your farm to anybody except your neighbor B, you would see the point; you would understand that kind of legislation; you would have your opinion as to its propriety. Some gentlemen have gone so far as to say if these parties do not wish to unite their roads, they will compel them to unite. Is there any such state of things existing as requires that? What is the public good which requires that we should so treat the corporate property of these stockholders? Much has been said about the small stockholders

of the Boston, Concord & Montreal,—and it has been tried to awaken our sympathy for them. I should like to know what treatment they would receive at the hands of the Concord Railroad if you should enact such legislation as that road proposes. You have only to look at their former conduct to determine. Did they exact hard terms of the Northern and the Boston, Concord & Montreal roads? Did they undertake to crowd and grind them? Did they undertake to exact from them conditions different from those which they had before agreed to? And was it a grasping and grinding monopoly, or not?

Such is the spirit of this corporation; and if you leave matters in a condition for them to exercise that spirit, you will find it as relentless as ever.

I am in favor of the seventh section because I believe it will have a tendency to prevent litigation. The eighth section contains provisions as to connections of railroads, places the matter under the regulation of the commissioners, and provides for an appeal to the supreme court. The gentleman from Exeter, Mr. Bell, familiar with the circumstances, as I am not, has delineated to you the condition of things at Manchester, and clearly shown the necessity for the provisions, not for the advantage of one road alone, but for the advantage of all.

Section eleven reads as follows: “Railroad corporations created by the laws of other states shall have all the rights and privileges as regards connecting roads, under the preceding sections, as corporations created by the state.” It supplements the three preceding sections, and makes their provisions general.

The twelfth section of this act provides for a general enforcement of the orders and decrees of the railroad commissioners. It strengthens the commissioner law, and gives greater power in its execution. It certainly is not in favor of any monopoly. All these provisions are concessions to the people. I am not in favor myself of any special act of legislation regarding freights and fares,—that is, except some general provision such as is put in this bill, that they shall not be increased over what they are at a certain date. You never can tell, when you make a special law, such as Mr. Todd’s two-cent bill, how it is going to operate. The matter of freights and fares should be left in the control of the railroad commissioners. My friend

from Nashua, up to 1886, was the chairman of that board from its inauguration, and I take it if any such provision as that embodied in the Todd bill had been needed, if any such thing as that ought to have been done, it would have been ordered by the commissioners.

We cannot consider the subject in all its minutiae, in all its bearings, and we are just as likely to get something that will work against the public as to get something that will work in their favor.

Such are the provisions of the Hazen bill. There is a provision restricting fares and freights to what they were August 1, 1887. That is general; that applies everywhere, over all the systems. Then, gentlemen, is this provision, that this act shall always be under the control of the legislature to alter, amend, or repeal, as the public good may require. My friend from Weare gave you authorities on that subject, illustrating and enforcing his view of the law. He has discussed the matter so fully and thoroughly that it is entirely unnecessary for me to enter upon that field.

Let us turn to the Atherton bill. That provides in the first place for this marriage, this union forever, of the Boston, Concord & Montreal road with the Concord road. Is there a man in this house that does not believe there is at the present time in the hands of the Concord road a large surplus that belongs to the state? Who has denied it? Who from the Concord Railroad has come here and undertaken to deny that proposition, except in the most general manner? They have referred you to the figuring of Mr. Barnard in 1883 on that subject. I have here the act of incorporation of the Concord Railroad. That whole figuring treats the question just as though the stockholders of the Concord Railroad are to receive ten per cent. dividend, or it is to be made up by the state whenever they take the road. The provisions of that law do not say any such thing. That figuring is made up in this way: it takes what the stockholders of the Concord Railroad have received year by year, adds enough to that to make ten per cent., and figures interest thereon. I do not think they are entitled to interest. I do not think the Concord road can hold the property of their stockholders in their possession, and charge the state interest thereon.

Now this section of the act incorporating the Concord Railroad says, "That the state at any time during the charter of the Concord Railroad Corporation, at the expiration of twenty years from the time of the completion of said road, may purchase the same of said corporation, and all the franchise, rights, and privileges of said corporation, by paying them therefor the amount expended in making said road; and in case, at the time of said purchase, the said corporation shall not have received a net income equal to twelve per cent. per annum on the amount of such expenditure from the time of the payment thereof by the stockholders, by paying said corporation such additional sum as together with the tolls and profits of every kind which they shall have received from said railroad, will be equal to a net profit of ten per cent."

If the corporation have received twelve per cent. annually during that time, no matter what they have done with it, no matter if the stockholders have not got it,—if the corporation have received it, then the state could take the road by paying therefor the amount expended in making said road. Is there a man within the sound of my voice who believes that this corporation has not had a net income of twelve per cent. per annum on an average from the time they were incorporated up to the present time?

The question is, Have the corporation earned year by year on an average twelve per cent. net?—and if they have that is an end of the matter. You have heard of the offer of \$500,000 already made. [Applause.] It is time the question was acted upon and dropped out of the halls of legislation. One of our opponents says this surplus amounts to \$2,000,000. This would go a good ways towards paying the state debt. Gentlemen, here is something for you to consider. Are you going to pass any act or do any legislation that will by any possible interpretation be considered by the citizens of your various towns as voting away to any party \$2,000,000 that belongs to the state?

But I started to say that the provisions of this Atherton bill were made for the purpose of diverting this surplus and taking it out of the reach of recovery, and I will tell you how it is going to be done. I did not understand it fully until my friend from Laconia made his speech, and said "this plum of the Concord Railroad is what we are after." That has been talked

about and put down by this house as a dead give-away upon this whole subject. They are after that. Who is after it? It is a syndicate that is after it, gentlemen. Of course no syndicate can ever have anything for itself without conferring some benefit on somebody else. I suppose there are small stockholders that may, when the syndicate are getting this bonanza, realize some benefit from it, but that is merely a matter by the way, and when my friend came in here and talked about marrying these roads, I understood full well what he meant. It was that the stock of the Boston, Concord & Montreal should be fused with the stock of the Concord Railroad, so that these poor shares of the B. C. & M. may be permeated with this surplus fund, which, like blood, will run through them. That is the effect, gentlemen. The market value will be raised. My friends of the Concord Railroad are not anxious to fuse themselves with this Northern Railroad. They prefer to be left alone just as they are. They would prefer to enjoy the surplus just as they have done; but if they cannot do that, then, as the next best thing, they wish to fuse these two railroads, and then you will wake up some fine morning and find that some other railroad has got those shares. That is what is going to happen. That is what they design to do; they mean to realize this surplus and put it into their pockets. That is the whole scheme. You may put any provision that you please into the bill, that the state may hereafter call upon the Concord Railroad for its surplus, but it will be of no avail. It will have gone beyond your reach.

Again: It is said we are by this bill surrendering to foreign corporations the control of our railroads. There never was a greater absurdity. There cannot be found one single case, one single opinion, one single line of law in any opinion, in any decision of court, in any book of law, to substantiate such a position as that. Look at it a moment. What power, I ask you, has this legislature, or any other legislature, to take from the state of New Hampshire its authority as a state and turn it over to Massachusetts or any foreign corporation? Do you believe if you should attempt to do such a thing it would be worth the paper it should be written on? You need not trouble yourselves about this bill, if that is all there is to it. You need

not be concerned about its holding ninety-nine years, if it undertakes to surrender the authority of the state to outside parties. And you cannot get that question to the supreme court of the United States. You know the constitution of the United States is a document of powers delegated by the states to the United States. Now there is no provision in that constitution that allows any question between the state of New Hampshire and any citizen of another state to go to the supreme court. State sovereignty, state authority within its jurisdiction, is as absolute as any power on earth can be.

[At this point the house adjourned to 7:30 P. M., when Mr. Colby concluded his speech.]

MR. SPEAKER: I desire to mention one or two matters that in running hastily over, and without anything except mere points noted, I have omitted. If you should pass the Atherton bill, of course that would determine that the public good required the taking of the lease of the Boston, Concord & Montreal road and passing it over to the Concord road under the idea of eminent domain, or the right to take property when the interests of the state demand it. It has been alluded to here by the gentleman from Exeter, Mr. Bell, and the idea advanced that the state had the right to take the railroads into its control, and either run them itself or put them into the hands of a trustee, or manage them in some other way, like the postal service, or any other public matter. The state simply entrusts the service to certain hands under an act of incorporation, or in some other form, with the right always to resume it at any moment. Generally speaking, when we pass acts of incorporation, we say, "This act is subject to be amended, modified, or repealed whenever the public good may require it." As I said in my talk about the ninety-nine years lease, everybody understands, and all legislation recognizes the fact, that so long as the public good does not require any extraordinary thing of that kind to be done, the state has discretion enough not to exercise the right;—just so in the matter of leasing railroads: the control of the state is always full and complete. The good sense of any one will say to him that the state ought not to interfere when parties doing the duty or exercising the right are

doing it in accord with the public good, and so as to meet the demands of the state.

Now this Atherton bill, in my judgment, proposes an extraordinary proceeding. I do not think, and I do not believe you will think, gentlemen of the house, that the public good requires at the present time the violent taking of the property or right in this lease of the Boston & Lowell corporation. Every expression, from whatever source I have heard it, has been that the train service, the public service all along these northern lines, has been perfect. The people say, we want no better. They say to the Boston & Lowell, "You have done everything for us that we could ask; we are delighted with the manner in which you have served us, and we wish a continuance of the service as it has been." I think it will commend itself to your good sense that the public good does not require the exercise of so extraordinary a power as that of taking the lease from the hands of the Boston & Lowell and passing it into the hands of another corporation, simply for the purpose of enriching or aggrandizing that corporation.

The leasing of a railroad does not change its character or its duties; it stands just as it did before; the same liabilities which the law imposed upon it remain; and whoever takes it must fulfil its duties, public and private.

All the obligations of the common law or statute law of any and every kind which were upon the lessor as a common carrier, fall upon the lessee, and the lessee must fulfil these duties, or violate its obligation and forfeit its rights to hold and manage the property. And the lessor or the state can resume it on that ground at any moment.

Again: When a corporation leases itself to another corporation, as the Northern Railroad has to the Boston & Lowell, there are numerous authorities to the effect that the lessor corporation, in any case of accident through negligence, or in any case of non-fulfilment of obligation assumed by the lessee, is liable and may be sued. There is a covenant in the lease in question which looks to just the state of things I have now described. That is, there is a covenant on the part of the lessee that in case of any accident, in case of any negligence, in case of default by the lessee corporation, they will protect the

lessor corporation from all damages and suits in regard to it. That covenant was made, not for the purposes of the argument that I am making, but because shrewd lawyers, in drawing up that lease, recognized the law as I have stated it,—that the local corporation might be sued in case of default or negligence, because it is incumbent on them by virtue of their act of incorporation, accepted by them from the state, to see that the railroad was run according to law; that is, that no negligence should ever cause injury to passengers, no default should be made in their duties as common carriers. The state placed that burden upon them, and that burden remains upon them. There are numerous cases to the effect that such is the law unless there is special provision in the legislation relieving them of this burden; and nothing of that kind is to be found in this lease or in any action on the part of the state. If the party who takes the railroad takes it by virtue of a mortgage, or takes it by virtue of a receivership or by operation of law, the matter stands differently. I am speaking about the matter as between the lessor and lessee.

The transfer, or attempt by the railroads to transfer, cases to the United States court in this jurisdiction has not been frequent, so far as my observation extends. I do not think it would be of advantage to them to take such a course. For many years a foreign corporation has run the Sullivan County Railroad, and we have found no trouble in that or any other direction, and I apprehend none. My friend from Tilton has given you a pathetic account of the fortunes of his father, and asks that in his old age he may through your action derive some benefit from his stock in the B. C. & M. Many men have lost all they put in. They never expect to get it back, and they never will. We have suffered in many parts of the state in this manner. We are sorry; we would have liked to have it otherwise; but is that any proper ground on which the legislature of New Hampshire shall determine a great question of state interest? Why, I should prefer to vote to those men who suffered in that way a free gift out of the treasury of the state, rather than violate a principle which I believe lies at the foundation of our prosperity.

A word as to the Canadian Pacific. I understood Gen. Marston to say that the Canadian Pacific was a terrible institu-

tion, and that in some way or other it was going to work a terrible injustice and harm to New Hampshire. When gentlemen come before you with that sort of an argument, you must think that they either regard you as not quite up to the mark, or else they have uttered in the hurry of debate something they did not quite mean to say, as men often do when on their feet talking extemporaneously.

I have always labored under the idea that it was a benefit to the state of New Hampshire, or to any other state, to have communication with the rest of the world. I have thought that commerce with the Canadian territory, commerce with England, commerce with China, commerce with Mexico and the South American states, was something to be hoped for and encouraged. Am I mistaken? Am I talking to a legislature in the midst of the nineteenth century? or have I gone back a hundred years, when communities had not our present facilities and lived almost entirely by themselves? You have now, by virtue of railroads and ship communication, your fruits from the South in their season. You have from over the water, from the Mediterranean, oranges and the various fruits there growing; you have your tea from China, and your silks from some other parts of the world. In this age we live in a different way from what they did one hundred years ago. Do you wish to deprive yourselves of these advantages? Do you wish to shut out communication by means of the Canadian Pacific Railroad, and by all other means of communication with the outside world? That is the logic of the gentleman's argument. But he knew the absurdity of that position, and so at last he said, "Why, I am willing they should bring here whatsoever they have a mind to bring, but I do not want them to undertake to get in here and control our affairs; and I do not want the Boston & Maine Railroad, for the consideration of \$3,000,000 or any other sum, to turn their system of railroads over to the Canadian Pacific."

Is there any danger of it? Is there not a provision in the Hazen bill that these roads shall not be leased by the Canadian Pacific? Haven't we made that in the Hazen bill as strong as possible? and haven't they got to come to the legislature of New Hampshire in order to get this provision reversed? Besides, I have not so much fear of foreign corporations as the gentle-

man seems to have. I expect in a hundred years from this time, when the Western country shall have been overflowed, when immigration has filled up those great states to repletion, that it will drift out over the Canadian lands, and perhaps by and by, through that means and the inter-communication fostered by these very railroads, the territory of the United States of America will be extended to the northern waters. I believe that instead of being captured by the Canadian Pacific or by Canada, they are much more likely to be taken by us, and to come to us and form a part of our system. There is no danger from that source; and if there were danger, we have given you the best possible guard against it. What more can you ask at our hands in the Hazen bill? Mr. Bell told you, very pertinently, that he was in favor of the Hazen bill because the Boston & Maine, united with these upper roads, would make a strong resisting force against any attempt at invasion. It would be a force that would command the respect of the Canadian Pacific, or any other road with which it should come in contact. Is not that so? Is not that the true argument? If you wish to provide for resistance, can you not get it from the Boston & Maine better than to leave these upper roads alone, or even better than to let the Concord road unite with them? But, gentlemen, I am talking too long in regard to these matters.

I wish to say a word about the matter of competition. It has been displayed and commended to us as a means of preserving all the rights of the people of New Hampshire in the best possible manner. Let us look at that for a moment. I desire to read to you from Charles Francis Adams on the subject of railroads, an eminent authority, and one whose opinions are entitled to the greatest weight. On the 80th page of "The Railroad Problem," he says,—

During the last ten years there has been so much vague discussion of what is commonly known as the railroad problem, that many people, and those by no means the least sensible, have begun gravely to doubt whether after all it is not a mere cant phrase, and whether any such problem does indeed exist. Certainly the discussion has not been remarkable for intelligence, and the currency question itself has hardly been more completely befogged in clouds of indifferent declamation, poor philosophy, and worse logic. No fallacy has been too thin to pass current in it, and the absolute power which certain words and phrases have held over the

public mind has throughout seemed to set both argument and patience at defiance.

I ask you, gentlemen, to apply these remarks of Charles Francis Adams to the constant cry of "monopoly," "stock-jobbers," "invaders," "robbers," that we have so often heard here—and for what purpose? Is it not to excite your prejudices? Is that calm, dispassionate reasoning? or, is it an endeavor to warp your minds and excite your prejudices by such words and phrases as Charles Francis Adams has here described? Then, on page 117, he says, in regard to this matter of competition,—

To one now looking back and reviewing the whole course of events, cause and effect become apparent. Things could not have taken any course other than that which they did take: the logic has been inexorable. The whole theory under which the railroad system was left to develop itself was founded on a theoretical error; and it was none the less an error because, even if it had been recognized as such, it could not have been remedied. That error lay in the supposition, then universally accepted as an axiom, that in all matters of trade, competition, if allowed perfectly free play, could be relied upon to protect the community from abuses. The efficacy of railroad competition, expressing itself in the form of general laws authorizing the freest possible railroad construction everywhere and by any one, at an early day became almost a cardinal principle of American faith.

A gentleman from Nashua the other day advocated competition. Gentlemen from Manchester have advocated it; they have said, in substance, that they have two railroads, and they wish to preserve them and enjoy the blessings of competition. Well, they had competition in the eastern part of the state between the Eastern Railroad and the Boston & Maine, and in the end they did not find it very useful. It helped create their enormous debts, helped ruin the Eastern Railroad, and was the thing that has taken out of the pockets of the people large sums of money in the eastern part of the state. And now, gentlemen, it has resulted in combination, which is always the case.

Did it ever occur to you that we, here in New Hampshire, cannot every man of us have two railroads run to his door? You, up in the northern part of the state, in every town, are

you going to have two railroads, so that you can have competition at every point? That is a state of things which you can see would be absurd to expect. I am willing the city of Nashua should have equal privileges as to competition with the rest of us, and the city of Manchester likewise. But, gentlemen from Coös, Grafton, Strafford, and Rockingham, or any other part of the state, I do not desire, and I think you will not desire, that the city of Nashua should have competition there such as would lower the rates, and in the war of railroads get them down below the normal point, because,—mark me, gentlemen,—what the city of Nashua or the city of Manchester gains in that regard you will have to make up.

This matter of competition is an insidious power, and it is followed by combination which raises rates, or it is followed by discriminations and secret rates and everything of that sort, which have been injurious to the people and ruinous to the railroads of this country.

The gentleman from Nashua told you in his speech the other day that there were three methods in railroading. One was governmental control; another, letting them control themselves, or do what they pleased; and another was treating them as trustees, the state being the supervisory trustee,—and that he favored the latter method. I am in accord with him on that subject. What I wish to see in New Hampshire is a board of railroad commissioners with strength enough to make the railroads of New Hampshire serve me and carry for me, though poor and humble, just as well and at the same rates as for the man who counts his millions. I wish them to understand that there must be equality, and that everybody must be served alike; that freights and fares must be free from discrimination throughout the state. This matter of competition cannot in these railroad matters be sufficiently general to realize any good from it. The points where any good is obtained are few, and it works to the destruction and embarrassment of the rest. You can have proper freights and fares on your railroads only by having governmental control through your railroad commissioners in such way as I have described.

The next point I wish to consider is the physical connection of railroads. I will spend but a moment on that. I need only

refer you to the fact that the Boston, Concord & Montreal and the Northern have been run by the Boston & Lowell three or four years, and they are not physically connected. If there has been any trouble, I have not heard of it. I live at Claremont, on one line of that railroad. I think I know how the train service has been. There has been no trouble; the people are satisfied. And I will say here, lest I forget it, it is possible you may think there is something to this talk about legislating the Concord Railroad out of existence. The idea is absurd. The Concord Railroad has existed and prospered; their train service and all their rights have been protected while these roads above and below have been running under the leases. The argument as to physical connection does not amount to anything. Talk about the upper roads and the Boston & Lowell road crushing the Concord road is mere talk. They cannot crush it any more than your farm could be crushed if it lay in the midst of 10,000 acres belonging to some other man. The law of the state would preserve your rights to the farm as perfectly in all respects as though you owned the 10,000 acres and not the little farm of forty acres. These are arguments addressed to fear and prejudice, and not to reason.

Now, as to the Atherton bill: it has a delusive title. As it came into this house it was called "An act to secure to the state of New Hampshire the control of its railroads,"—just as though New Hampshire had not had the control of its railroads, and it remained for the gentleman from Nashua to save them to the state! The bill went into committee, and its friends thought it not quite sugar-coated enough, so they added this, "to carry into effect the true intent of the general railroad legislation of 1883." This was the name they gave it, but the name does not indicate its character. Everybody knows that the Atherton bill, instead of perfecting the law of 1883, reverses that legislation; that it is a return to the system of special legislation which for forty years had characterized the state. The bill provides that they may do a great many things; but if they do not do them, the only chance anybody has got is to go into court and see what the court say about the intention of this act. It is provided that it shall be the privilege of any man, if, after a certain length of time, they do not perform the things

mentioned, to get them into court and have the court say what this act means. I thought it would be a delightful thing for these weak roads, or anybody interested in the upper country, to get John H. Pearson into court. I think they would have a good time before they got out.

I desire to say something about the consolidation of railroads. Consolidation of railroads is a matter, I believe, in which we all agree—our friends of the Atherton bill, I think, with a mental reservation. I thought in 1883 we were adopting the principle of consolidation. I think a good many thought so. Judge Cross, in some of the remarks he made at that time, said that thirty-five states of the Union had adopted this policy. Now it is a good way to interpret a matter by looking at what those states have done. I venture to say that you cannot find any number of those states which have adopted the kind of consolidation which is recommended to us here—that is, consolidation that stops at state lines. Judge Cross, in his illustrations in regard to the matter, enumerated a great many railroads that had been consolidated. In 1883 he said that the legislature has the absolute and entire control of all railroads in the state, whether separate or consolidated. How is it in the other states? Have they suffered from consolidation? That is the way he put the matter then. You remember how he put it in his argument before the committee during this session of the legislature.

Consolidation is right in principle. I do not think you wish to chop off our roads at the state line. One gentleman—I think it was my friend, Mr. Atherton—said that the ultimate outcome will be a line of railroad from upper Coös to the sea. I think that is in the current of coming events, to happen, not by crushing the Concord Railroad, but by allowing her to make such business connections or consolidations with these other roads as shall accomplish what the state desires. The Boston & Maine Railroad have not taken the terminals of the Boston & Lowell and leased the Boston & Lowell without a reason; they have not given the Boston & Lowell what they have covenanted to give on their stock without a reason; and that reason is found in part in the advantages of the terminals of the Boston & Lowell Railroad. They see, if some of the gentlemen on the

floor of this house do not, that this country is progressing, that these terminals are becoming and will become very important. Look back upon the history of the country during the past fifty years: no flight of fancy has equalled the reality of what has taken place. The course and growth of our empire have been astonishing. Within fifty years the railroad, the telegraph, and other inventions which contribute to the benefit and the enlargement of affairs, have changed the whole course of business. These gentlemen of the Boston & Maine Railroad are alive to the condition of things. They have seen that in the near future commerce is going to make these terminals of great consequence. Shall we fail to enjoy, along with them, the benefits they offer? It is vital to the interests of New Hampshire that she should have the lowest freight and fares; that she should have every resource possible in this direction. We must be equals in the race, or our state will be left out of the track of progress. You cannot expect to compete with the prairies of the west in raising corn. You must bring your grains from the great north-west down over these roads. You must bring your merchandise from Boston up along these lines. The thing for New Hampshire to do is to develop her water-power, develop her manufactories. And it is a matter of the finest calculation on freights and fares. It is a matter vital to these manufactories whether they can save a few mills on a yard of cotton or on a pound of freight, or not. We are back here among the hills; and if your manufactories along the rivers in these valleys are going to compete with those near tide water and the great markets, you must have the lowest freights and fares. Men come here and indulge in fiery harangues against your manufactories and your railroads. Why do you not tear up your railroads and tear down your mills, and blast them and the whole land with fire, abate them as nuisances? That is the logic of some speeches we have heard here. I am exasperated, as a citizen of New Hampshire, when I hear that kind of talk. If you love your native state you will not allow that sort of spirit to control. I am in favor of controlling these things. I agree with the gentleman from Nashua, that railroads should be controlled. Make them your business servants; control your Amoskeag corporation, and make it do what it ought to do.

But hold back the spirit of destruction ; avoid social anarchy. Let us have prosperity rather than desolation. [Applause.] I am not talking for any railroad : I am not their attorney : I never was in my life. I do not come here under any influence of that kind. I am talking for the interests of New Hampshire as I understand them. I would gladly have avoided this question. But I am in it ; I have got to act upon it as one of you ; and so far as I am concerned you shall know what I think.

To relieve the situation, I will read what our friend Sulloway says in a part of his argument in 1883 on this subject of consolidation. I do not mean any disrespect to my friend from Manchester, who has gone away, but I presume he will know what I have said. He said the other night he had not read my speech. I would advise the gentleman, if he intends to answer my speech in any particular, to read it before he undertakes to answer it, and he will get nearer the truth, and make a better argument. [Applause.]

Now, gentlemen, this brings me to another particuar in which this Colby bill has been attacked, and that is the leasing of railroads ; and gentlemen come in here as if it were something new. They come in here and stand up and inflate their lungs, and they talk about consolidation. Gentlemen, they are aware that there is a prejudice in New Hampshire against what is called consolidation. The same class of people are afraid of consolidation that are afraid of ghosts ; it is they who have never seen ghosts that are afraid of them ; they are not familiar with ghosts ; they never happened to meet a ghost ; they are entirely unacquainted with ghosts ; and consequently they are afraid of a ghost. Now whenever you find a man who is scared at consolidation, or what is here called consolidation, he is a man who knows nothing of the practical working operations and savings to the people by the union of roads.

There have been references made during the debate to the reports of the railroad commissioners of New Hampshire. I desire to read a little. The Boston & Maine have been pictured to you as a horrible creature, and I was struck after all with the fact that during the forty years that the Boston & Maine have operated their roads so little could be said against their management. But they say they are terrible people, and that they will rob you of your liberty. I want to read to you what the railroad commissioners in 1886 said about this matter. And

this is signed by the gentleman from Nashua with the other railroad commissioners. He says,—

The decisions of this board have principally been decisions of equity. Not one has met with contention on the part of the public or of the railroads. The greater number of decisions has been adverse to the railroads, and the decisions have been accepted in good faith. While the time has not yet arrived for the principle of equity to dominate in all human affairs, it is making rapid advance. A railroad commission is a court of equity. It has few formulas. It is bound by no line of precedents. It is hedged with no intricacies. It has no costly machinery. It is subject to none of the laws of delay. It is a plain, open, and inexpensive court of arbitration between railroads and their patrons. Every complaint, however trifling, has been heard and decided upon the law and the equities, wherever the board has had jurisdiction. Not all have called for hearings, because their mere calling attention to a complaint has often been sufficient to secure an immediate remedy. This explains the less number of public hearings than would otherwise be the case. It is a matter for congratulation that complaints have not been more frequent.

Now if the Boston & Maine is a monster that defies your law, that undertakes to trample upon your rights, that would grind to powder the people along its line, how is it possible that this board of railroad commissioners, of which my friend from Nashua was a member, could write such a report? I honor him for the execution of his trust. I presume he stated the exact truth upon his conscience. He says that these railroads, on the very intimation that something was needed to be done, have done it, and the decision, made in equity and not in law, has been accepted with the utmost good faith. How does that comport with the talk about stock-jobbers, robbers, and invaders? Are these enterprising railroad managers what some people would represent them to be, or are they executing a great trust and doing their duty to the state and its citizens? I will leave it for you to judge. Why, you could hardly expect so enormous a property to go along from year to year without some jostling, without some complaint. Take into consideration that fact, and also take into consideration the report of your railroad commissioners, not made at a time when the blood might be a little heated, but in the coolness of the hour

when they were writing their report under their oath, honestly trying to tell the truth, and what shall the verdict be?

A word as to the matter of inter-state commerce. The senate committee, headed by Senator Cullom, made an examination, as the gentleman from Exeter told you. The matter was debated in congress for a long while, and it culminated in this commission. They made a wide inquiry, and they have made a law which he thinks is wise and just. I thank the gentleman for the admission that it is a wise and just law. Its purpose is in the direct line of what I have been talking to you; that is, of the legislative control of the railroads. The inter-state commerce commission is a system like your New Hampshire board of railroad commissioners, and under their hand is opening up—perhaps in a somewhat crude way at first—a great advance in railroad legislation in the United States. I want to read a little to you from Senator Cullom's report, one of the ablest reports that I ever had the pleasure of perusing, written thoroughly in the interest of the people, and designed to bring them the rights and benefits they ought to enjoy under their railroad system. I wish to broaden you out, as Gen. Marston says. I like to be broadened out myself; get a little wider view if I can. This committee say,—

The present century has witnessed the introduction of new forces in every department of civilized life, and none have brought about more marvellous changes than has the railroad as an aid to and an instrumentality of commerce. The commercial, social, and political relations of the nations have been revolutionized almost within the last fifty years by the development of improved means of communication and transportation. Previous to that period each nation lived almost wholly within itself. There was little intercommunication, and exchanges of products were limited to an extent that can to-day scarcely be realized. The commerce of the world was for centuries conducted almost exclusively upon the sea, and its proportions were insignificant in comparison with the foreign trade of any leading nation to-day. By the construction of turnpikes and canals and the development of river navigation, international trade gradually began to grow up; but barriers existed at every frontier; the transmission of intelligence was uncertain and expensive; through routes were almost unknown; long distance transportation was impossible, except by water, and there was actually but little communication or trading

between different nations or even between distant parts of the same country. * * *

But still more marvellous have been the changes brought about in the commercial, political, and social relations of nations, communities, and individuals by the improved facilities for transportation and intercourse afforded by the railroad, all within the present century, and mainly within the last thirty-five years. Indeed, the changes which have been alluded to have consolidated independent communities and sovereign states into nations, and their tendency has been in the direction of concentration and consolidation in political organization as well as in every form of commercial enterprise, industry, and production. * * *

Governor Horatio Seymour says,—“The chief element in the prosperity of every state or nation is the economy of transportation of persons and property. It is the marked fact in the difference between civilization and barbarism.” In the settlement of this country the “star of empire” closely followed in its continuous westward march the lines of the great internal water-courses, the first available means of inter-communication. The advancing tide of civilization swept by and around vast regions remote from the great rivers, regions in which prosperous states have since grown up; and it may be said of large portions of our imperial Western domain, which owe their development to the building of railroads, that the invention of the locomotive by George Stephenson in 1830 marked the beginning of “the difference between civilization and barbarism.” The railroad, as an improved means of communication and transportation, has produced indescribable changes in all the manifold transactions of every-day life which go to make up what is called commerce.

I have read this that you may see at a glance the importance of our vast railroad system, that you may see in your mind’s eye the bands which help bind us together and make us one country. I fear we should have fallen asunder in the time of the great civil war had it not been for the consolidating force of these lines of railway. Great corporations are a necessity of the times. No man or mere association of men can accomplish the enormous tasks which the civilization of the nineteenth century demands. The enormous growth and glory of the great West is largely due to the railways of the country. You cannot get along without them; you cannot do what is required to be done at this age of the world without these great corporations. Therefore I am not in favor of hostility towards them. I am not in favor of tearing up their rails, any more than I am in favor of tearing down your manufactories, or stopping your mill

wheels, or putting out the fires of your flaming forges. I am in favor of giving them every needed opportunity for progress. At the same time, I am in favor of inaugurating such legislation as shall control them. The interstate commerce legislation marks an era in the path of progress. But do the interstate commerce committee anywhere in their report recommend such legislation as has been urged by our friends of the Atherton bill? Do they suggest state systems, or demarcation at state boundaries? No such scheme has been suggested except in the legislature of New Hampshire, so far as my information and knowledge extend.

It is the easier and better way to leave railroads to make their business connections as business interests may determine, but at the same time to make them observe their duties to the state and to the public. That is the true path upon which we ought to travel.

There is one thing you have to learn, if you have not already learned it, and that is, it is barren of good results to vote against a natural law or the inevitable tendency of events. You throw away your efforts. Keep your efforts in the right direction, and on the line of useful control.

This brings me to another consideration. From the beginning some gentlemen have endeavored to make this a political question, have endeavored to make you believe that the Republican party was going to suffer. Gentlemen, you stand in a critical position. The legislation you adopt will determine the future business interests of the state. And no man should attempt to put this thing into politics; we ought not to listen to such considerations. My friend from Exeter has given you a note of warning. Settle this question here and now on business principles. If you are a Democrat say to your fellow-Democrats, and if you are a Republican say to your fellow-Republicans, that no question of politics, either Democratic or Republican, shall enter into the consideration of these matters. We will determine now and forever that the railroads of the state shall be business institutions, and so remain. [Applause.]

Again, about those bonds that have been flaunted in your faces. I do not like to see it. I do not know how it may seem to you. I do not like it from whatever source it may come.

Let no man stand up here to lead any man away from allegiance to his state, and flourish over his head a bond. That is never done by men who are confident in their principles, who are confident of the truth of what they advocate, who believe under God that they are fighting for the right. When men go about promising representatives that they will build a road here and a road there, and by such bids seek their votes, it is an acknowledgment in the plainest language that they have no principle to stand upon, and are obliged to adopt subterfuge. [Applause,]

I will read again from the report of the committee on interstate commerce :

Commerce, in the meaning of the constitution, includes the transportation of persons and property from place to place by railroad. Commerce among the states includes the transportation of persons and property from a place in one state to a place in another state. Interstate commerce is all commerce that concerns more states than one, and embraces all transportation which begins in one state and ends in or passes through another state. The power to regulate such commerce is vested exclusively in congress, without any limitations as to the measures to be adopted or the means to be employed in its discretion for the public welfare. The states being without power to regulate inter-state transportation, the people must look to congress alone for whatever regulation may be necessary as to inter-state commerce.

Four fifths of the commerce—and if you think of it a moment you will perceive that is the truth—four fifths of the commerce that comes to the state of New Hampshire is interstate commerce, and subject to congressional control, is subject to the regulations of the United States. In the control of our railroads, therefore, you will see that we have not only got the force of the state law and the state commission, but all the force of the government of the United States and of the interstate commission. Do we need to fear the result? Do we need to be trembling as to what legislation we shall adopt under these circumstances for fear of Monopoly? Is not all the force of the state government and of the United States sufficient for the occasion? If not, then is government a sham and a failure. I think that no one looking this question over will have any occasion to fear as to the ultimate result. No monopoly is going to overpower or control you. You will have the whole

power of the government, of the state, and of the United States, with its various machinery, to defend and establish your rights.

Hear what Mr. Sulloway said in 1883 on this subject :

Somebody says these roads are going to be terribly powerful when they are united ; they are going to be overwhelming, and the legislature can't handle them. Is there anybody here who is so white-livered as that? Is there anybody here who believes that these railroads united would n't be weaker in a contest with the people than to-day? To-day, supposing half a dozen men on the line of the Concord road are at war with it, and they should undertake to come here and get redress, what do you gentlemen, living in other sections of the state, care about that, or if it was on any other road? But if it was all one road and a gentlemen gets cross with the railroad up at Lancaster, it is the same road that another man gets cross with at Wolfeborough, or over in Keene, or up at Franklin, or down in Nashua, and if they were all joined in one institution, one corporation, they would be weaker with the people than to-day. But they would be stronger in another way, they would be stronger when they wanted to make business contracts with the Boston & Lowell Railroad. If they control the entire freight and passenger traffic of northern and central New Hampshire, they would be in a position to make some demands of the Lowell road that they are not in the position to make to-day, cut up as they are into sections and fragments. They would in that case be a tower of strength.

Let me further quote to you from a speech of the gentleman from Nashua, made in 1883 before the railroad committee :

Thus stands to-day the great question of the state control of railroads. The testimony proves, what Gov. Cullom claims, that there has been marked progress in the settlement of the railroad question through state boards of commissioners. There are one or two other suggestions that ought not to be neglected. A competent tribunal of this character will relieve the legislature and the railroads of much expense and annoyance. This is no small item. Every intelligent gentleman in the state knows that the legislature has been the scene of fierce conflict between the railroads themselves, or the railroads and the public, for a dozen years. It is time for this to cease. If there be any economy or good in it, those results are not apparent, while the evils are bad and growing worse every year. The railroad interest should be taken out of controversy in the legislature, and out of politics, and placed upon a purely business basis. Then, if these roads wish to unite, on the plea of greater economy and efficiency, let them unite, and you will have a tribunal that will compel them to realize the assurances upon which they united. With this tribu-

nal union will be strength and safety. Without it it will be a delusion and a cheat.

In these two extracts, quoted from the two leading debaters for the Atherton bill, you have set forth very powerful reasons for one railroad system. You have, clearly stated, the power and force of public opinion concentrated from all parts of the state upon one corporation everywhere exposed to the jealous and watchful eye of the people. You have, sharply drawn, a picture of the fierce and demoralizing conflicts that have been witnessed in these legislative halls for the last sixteen years. In the language of the gentlemen from Nashua, it is time for this to cease. Instead of these false, pernicious, and destructive methods, let us recognize the legitimate action of existing forces.

There are two forces at present at work in this country. One is corporate power, necessary to the development of our industries, to the development of our water-power, and necessary to intercommunication between the different parts of this vast country. This power, perhaps, is sometimes a little too arrogant, but on the whole it does its work well. On the other hand is the power of the laboring men, the yeomanry of the land, insisting upon their rights. This power has been seen and felt in this legislature. These are alike necessary to our prosperity. In the great future of the country these two forces will work out between them better results, better government, greater prosperity, age by age, than could either alone. [Applause.]

You laboring men who are enlisted for the Concord Railroad are fighting for a monopoly and not for the people, a monopoly that has darkened your doors and dogged your footsteps with the most powerful and persistent lobby ever known within the state. Will you take such a monopoly into such relations and communion as they shall forever after control you and the state? They have failed in the discharge of their trust, and would now cajole you into giving up to them the state's interest in their surplus.

We have been here much longer than any legislature was ever here before. I shall not have much opportunity to talk to you again. I have talked long and earnestly. I feel deeply upon this subject. Will you go from here to your constituents and

tell them you have done nothing, or that you have done the wrong thing? Remember the surplus of the Concord road. Are you going to vote it away where you can never see it again? Are you going to erect two systems of railroads, one in the east and one in the west, that shall fight out their battles forever upon the floor of this house? God forbid that any such dire calamity should come to the state of New Hampshire. God forbid that at the end of this long contest we should give up the ship. Will you be equal to the emergency that fortune has cast upon you? Consider well my words. If I have not told you the truth, put it down against me. I see you have listened to me with care and attention. I think when we come to vote to-morrow you will find not a few in favor of the Hazen bill so called. You will find this house of representatives will make such an emphatic record of their judgment as your children and your children's children will love to look back upon. [Applause.]

Gentlemen, I thank you for your patience. I leave the matter with you. My course is marked out. What I shall do is certain. On your consciences as men, on your oaths as legislators, I beg you to act, and leave the consequences where you must leave the result of every act of life, with God. [Applause.]



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